

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 683

(Senator Waldstreicher)

Judicial Proceedings

Courts – Wrongful Acts by Deceased Individuals – Actions In Rem

This bill authorizes an individual who has been harmed by a deceased individual for whom no estate has been opened to bring an action *in rem* against the deceased individual's insurance policy for personal injury or death arising from a motor vehicle accident. The policy must be liable to the same extent that the policy would have been liable if the deceased individual were still living. Damages in an action may not exceed the policy limit of the applicable policy. The insurer who issued the applicable policy must be the resident agent for the policy for purposes of service of process.

Fiscal Summary

State Effect: Potential minimal increase in special fund revenues due to additional requests for service of process. Otherwise, the bill is not expected to materially affect State finances or operations, as discussed below.

Local Effect: The bill is not expected to materially affect local finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Current Law: In general, plaintiffs in tort cases against deceased defendants must file their claims against the defendant's estate. If no estate was opened for the defendant, the plaintiff has limited options and may have to petition to open and administer the estate in order to pursue the tort claim.

In rem (“against a thing”) matters are proceedings in court against property. Another type of personal jurisdiction is *in personam* (“against the person”) jurisdiction.

State and Local Fiscal Effect: The Judiciary advises that opening and administering an estate is a complex and time-consuming process and pursuing a claim *in rem* may be a more attractive option for plaintiffs. The bill may increase the volume of motor tort cases filed in the trial courts (from *in rem* actions filed under the bill) and decrease caseloads for the registers of wills and orphans’ courts (from fewer plaintiffs opting to open and administer estates). The Judiciary advises that it is unable to project the fiscal or operational impact from the bill. However, the Department of Legislative Services advises that the bill is unlikely to generate a volume of cases that would result in a material effect on finances or operations of the Judiciary. According to the *FY 2021 Maryland Judiciary Statistical Abstract*, there were 4,936 motor vehicle *civil* case filings in the circuit courts during fiscal 2021.

The Maryland Insurance Administration (MIA) advises that the bill does not have an effect on MIA finances or operations. Section 4-107 of the Insurance Article requires each insurer applying for a certificate of authority to appoint the Insurance Commissioner as attorney for service of process issued against the insurer in the State. The same requirement applies to an unauthorized surplus lines insurer and qualified surplus lines broker. A claimant must pay to MIA a fee of \$15 for each service of legal process.

Small Business Impact: By offering a less time-consuming method to file motor vehicle claims against a defendant who dies without an estate, the bill may have a meaningful impact on attorneys who litigate motor vehicle torts.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland Insurance Administration; Department of Legislative Services

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